

SPECIAL ISSUE

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REPUBLIC OF KENYA

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KAKAMEGA COUNTY ACTS, 2019

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**THE KAKAMEGA COUNTY AGRICULTURAL PRODUCE CESS
ACT**

No. 4 of 2019

Date of Assent: 21st December, 2018

Date of Commencement: See Section 1

ARRANGEMENT OF SECTIONS

Section

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SCHEDULES

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**THE KAKAMEGA COUNTY AGRICULTURAL
PRODUCE CESS ACT, 2019**

AN ACT of the County Assembly of Kakamega County to provide for the imposition of Cess on agricultural produce within the County and for connected purposes.

ENACTED by the County Assembly of Kakamega County as follows—

PART I—PRELIMINARY

1. This Act may be cited as the Kakamega County Agricultural Produce Cess Act, 2019 and shall come into operation upon publication.

Short title and commencement

2. In this Act, unless the context otherwise requires—

Interpretation

“Agricultural producer” means a producer of agricultural produce and includes any marketing organization acting on behalf of producers;

“Authorized officer” means any person prescribed and authorized in writing by the Executive Committee Member to act as an authorised officer under this Act;

“County Government” means the County Government of Kakamega;

“Executive Committee Member” means the Executive Committee Member responsible for agriculture;

“Processing plant” means premises where agricultural produce is processed mainly by machines;

“Produce cess” means charges imposed under this Act and payable to the county government;

“Scheduled produce” means any produce for the time being specified in the First Schedule;

3. The object and purpose of this Act is to impose charges on agricultural produce grown in the county pursuant to the provisions of Article 209 (3) of the Constitution of Kenya, 2010.

Object of the Act.

PART II—AGRICULTURAL PRODUCE CESSES

4. (1) The County Government shall collect cess on agricultural produce within the County in accordance with the Second Schedule of this Act.

Agricultural produce cesses

(2) The Executive Committee Member may impose cess on any other agricultural produce not already provided for under the Second Schedule of this Act by Regulations, and may make such incidental provisions as are necessary or expedient for the collection of the cess by the receiver of revenue.

(3) The proceeds of the cess collected will be used for infrastructural development of the area collected.

5. The Executive Committee Member may, by notice in the Gazette, declare any agricultural produce to be a scheduled produce for purposes of this Act.

Declaration of
scheduled produce

PART III— PAYMENT OF CESS

6. The cess imposed under this Act shall be payable by the agricultural producer to the county government through the processing plant at the time when the plant takes delivery of the produce or product of the produce.

Payment of cess

(2) Any person whether within or outside the county who buys or markets on behalf of an agricultural producer, agricultural produce on which cess is payable and on which no cess has been paid shall deduct from the money payable to the agricultural producer an amount equal to the cess payable on the produce and remit the amount to the county government.

(3) The processing plant shall ensure that all the amounts deducted as cess are remitted to the County Government by the 20th day of the next month.

(4) The County Government may deploy inspectors to processing plants and barriers to ensure compliance with provisions of this Act.

(5) In any proceedings it shall be presumed, where agricultural produce on which cess is brought in regard to failure to pay or remit cess, that no cess has been paid on that produce until the contrary is proved.

(6) Any processing plant which fails to comply with the provisions of sub-section (3) commits an offence and shall be liable on conviction to a fine not exceeding one million shillings.

(7) Notwithstanding the provisions of sub-section (6) the County Government may impose a penalty for late remittance of the cess due and owing.

(8) The County government shall recover cess remittable by the plant whether or not the plant collected the cess from the agricultural producer and the cess owing shall be a civil debt recoverable summarily.

7. (1) The processing plant shall make and keep such up to datebooks, accounts and records as are reasonably necessary to determine the mass of agricultural produce supplied to it and cess deductions made thereof for a period of at least seven years after the completion of the transactions to which they relate.

Obligation to keep records

(2) The County Government may by notice in writing given to the processing plant, direct the plant as to the books, accounts and records the processing plant is required to make and keep.

(3) An authorized officer shall be allowed access, within working hours to the records referred to in subsection (1).

(4) Any processing plant which fails to comply with the requirements of this section commits an offence and shall on conviction be liable to a fine not exceeding Three million shillings.

8. The authorized officer shall ensure that cess on agricultural produce from the county on transit to other counties is collected at barriers set up at the points of entry as per Regulations made by the Executive Committee Member and shall ensure that all the amounts collected are accounted for and remitted to the County government.

Payment of cess on agricultural produce on transit.

PART IV— MISCELLANEOUS

9. The County government may enter into an agreement authorizing a person or entity to collect cess payable to the county government on such terms and conditions as are specified in the agreement.

Agreement in relation to revenue collection

10. An authorized officer having a duty to perform under this Act and who—

Offences by an authorized officer.

- (a) interferes with any process or person under this Act, so as to defeat the provisions, requirements or purposes of this Act;
- (b) where required under this Act to do anything, or to give effect to the provisions of this Act, fails to do such thing;

- (c) without reasonable cause omits to do something in breach of his or her duty under this Act;
- (d) willfully contravenes the provisions of this Act to give undue advantage or favor to another person;
- (e) fails to prevent or report to the County Government or any other relevant authority, the commission of an offence committed under this Act,

commits an offence and shall be liable on conviction, to a fine not exceeding two hundred thousand shillings or to imprisonment for a term not exceeding one year, or both.

11. (1) The Executive Committee Member may from time to time vary cess payable under this Act. Variation of cess

(2) The variation of cess shall be in writing and published in the *Gazette*.

12. The Executive Committee Member may make Regulations for the better carrying out of the purposes and provisions of this Act. Regulations

13. Neither the Executive Committee Member nor any other person shall be personally liable to any action or proceedings for or in respect of any act or thing done or omitted to be done in good faith in the performance or exercise or intended performance or exercise of any duty or power imposed or conferred by or under this Act. Personal liability

14. Nothing contained in this Act or any rules or regulations made pursuant thereto shall prejudice or affect collection of cess under the previous by-laws of the defunct local authority of the county, and where anything in this Act or any rule is inconsistent with any such provision of the by-law, the provisions of this Act shall prevail. Saving Clause

15. All directions, resolutions, orders and authorizations given by laws made and licences, receipts or permits issued by local authorities for payment of cess within the county under the Local Governments Act (now repealed) and subsisting or valid immediately before the commencement of this Act shall be deemed to have been given, issued or made under this Act. Saving of rules and orders under the bylaws.

16. The county government shall liaise with the Director of Public Prosecutions for the appointment of a special prosecutor for purposes of offences committed under this Act. Prosecution of matters under this Act.

SCHEDULES**FIRST SCHEDULE (Section 2)****SCHEDULED PRODUCE**

1. Bananas
2. Sugarcane
3. Beans
4. Carrots
5. Cassava
6. Coffee
7. Tomatoes
8. Cucumber
9. Egg plants
10. Water melon
11. Avocado
12. Oranges
13. Passion fruits
14. Pumpkin
15. Lemons
16. Ground nuts
17. Maize
18. Mangoes
19. Milk
20. Onions
21. Pawpaw
22. Peas
23. Potatoes
24. Processed fresh milk

25. Sugar cane
26. Sweet potatoes
27. Tea leaves
28. Eggs
29. Fish
30. Soya beans
31. Trees and tree products
32. Sorghum
33. Vegetables including cucumber, capsicum and amaranths species
34. Animals and animal products

SECOND SCHEDULE (Section 4 (1))

SCHEDULED AGRICULTURAL PRODUCE CESSES

ITEMS WITHIN KAKAMEGA

Coffee Cess in percentage of market price:	1%
Tea Cess in percentage of market Price:	1%
Maize Cess in percentage of market price:	1%
Milk Cess in percentage of market price:	1%
Fish cess in percentage of a market price:	1%
Sugarcane cess in percentage of a market price:	1%

